

OPINION
52-169

June 19, 1952 (OPINION)

TAXATION

RE: Commissioners Cannot Be Compelled to Sell for Less than Land is

Your inquiry re these sections has been received.

Our Court has held that when land has been sold to the county for unpaid taxes and the right to redeem has been regularly terminated, the county is the absolute owner of the real estate so acquired.

It is our opinion that section 57-2815 is not mandatory, and that the county cannot be compelled to sell any specific tract if in the opinion of the commissioners it should not be sold.

Further, the county commissioners are the fiscal agents of the county and their judgment in matters not specifically provided for by statute is not subject to control by the courts.

The county auditor, in making sales at private sale, under section 57-2817, is acting only as the agent of the county and is subject to the control of the county commissioners. He may not negotiate a sale except with the consent of the commissioners. The provisions of section 57-2810 and section 57-2815 relating to appraised value and sale price merely fix a minimum price. Suppose it appears after the annual sale that a certain tract is extremely valuable as oil-bearing land. In such a case neither the county auditor or the county commissioners could be compelled to sell it for the amount of taxes against it.

It is our opinion that the commissioners may, in any case where an application is made to the county auditor to purchase at private sale, refuse to execute a deed for less than the land, in their judgment, is actually worth.